IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 4480 of 2005

Between:

1 Cbelluboyanna Nagaraju S/o. Nagabushanam,
2 Dommeti Satyanarayana S/o. Musalayya
3 Kadimi Peddi Raju S/o. Lohidasu
4 Chelluboyana Lakshmikantham W/o. Nagabushanam,
5 Mallula Narasimha Swamy S/o. Bullabbai,
6 Kadimi Nageswara Rao S/o. Rama Murhty
7 Kadimi Raghavulu S/o. Durgayya
8 Kadimi Surya Rao S/o. Venkanna
ALL ARE RESIDING AT DODDIPATLA VILLAGE, YELAMANCHILI MANDAL, EAST GODAVARI
DISTRICT.

..... PETITIONERS

AND

1 The Deputy Commissioner, Endowments Department, Kakinada,
East Godavari District.
2 The Assistant Commissioner, Endowments Department, Eluru,
West Godavari District.
3 The Executive Officer, Sri Muleshwara and Sri Kanakadurga Ammavari
Temple, Doddipata (V), West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Certiorari by calling for the records pertaining to the impugned proceedings passed by the 1st respondent in order No. 9/2004, dt. 4-5-2004 in O.A.No. 104/1998, in Order No. 2/2004 dt. 4-5-2004 in O.A.No. 97/98 in Order No. 6/2004 dt. 4-5-2004 in O.A.No. 101/1998 in Order No. 4./2004 dt. 4-5-2005 in O.A.No. 99/1998, in order No. 7/2004 dt. 4-5-2004, in O.A.No. 102/1998 in Order No. 5/2004 dt. 4-5-2004, in O.A.No. 100/1998 in Order No. 8/2004 dt. 4-5-2004 in O.A.No. 103/1998 in Order No. 3/2004 dt. 4-5-2004 in O.A.No. 98/1998 and declare the same as arbitrary, illegal, void ab-initio and contrary to the provisions of Endowments Act and set aside the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.J.ASHVINI KUMAR
Counsel for the Respondents 1 and 2: GP FOR ENDOWMENTS
Counsel for the Respondent No. 3: Smt. N. Indrani , SC for Temple

The Court at the admission stage made the following :

ORAL ORDER:.

Heard.

In this Writ Petition, obviously, the petitioner is challenging the title of the third respondent-Temple. Though the petitioner is aggrieved by the impugned order passed by the first respondent, indirectly he is challenging the title of the temple only. In such a case, perhaps, the respondents, invoking Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (hereinafter referred to as 'the Act'), proceeded with the eviction of the petitioner from the property.

Counsel appearing for the petitioner submits that this dispute can be decided by the Deputy Commissioner, under Section 87 of the Act. But a bare perusal of Section 87 indicates that the disputes, which can be decided by the Deputy Commissioner, do not indicate that he is competent to decide the question of title.

When once the competent authority issues proceedings, seeking eviction of the petitioner from the land belonging to the third respondent, the same can be challenged by way of filing a civil suit in a competent court, as postulated under sub-section (2) of Section 84 of the Act, on the ground that the land does not belong to the temple.

For the foregoing reasons, this Writ Petition is dismissed with liberty to the petitioner to file a Civil Suit before the competent Civil Court. No costs.

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D.S.R. VARMA, J

DATED: 09.03.2005

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To

1 The Deputy Commissioner, Endowments Department, Kakinada,
East Godavari District.
2 The Assistant Commissioner, Endowments Department, Eluru,
West Godavari District.
3 The Executive Officer, Sri Muleshwara and Sri Kanakadurga Ammavari
Temple, Doddipata (V), West Godavari District.

4. 2 CCs to G.P. for Endowments, High Court of A.P., Hyderabad. (OUT)

5. 2 CD Copies.